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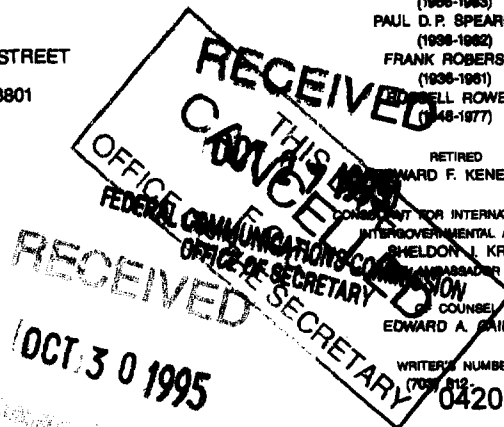
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October 30, 1995

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: MM Docket No. 95-92
Review of the Commission's Regulations Governing
Programming practices of Broadcast Television Networks
and Affiliates (Section 73.658 (a), (b), (d), (e) and (g))

Dear Mr. Caton:

On behalf of Pappas Stations Partnership, there are transmitted herewith an original and four copies of its Opposition Comments in connection with the above-noted proceeding.

If further information is necessary, please communicate with this office.

Very truly yours,

Vincent J. Curtis, Jr.
Counsel for Pappas Stations Partnership

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Enclosure

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Review of the Commission's)	
Regulations Governing Programming)	MM Docket No. 95-92
Practices of Broadcast Television)	
Networks and Affiliates)	
)	
47 C.F.R. § 73.658(a), (b), (d),)	
(e) and (g))	DOCKET FILE COPY ORIGINAL

Directed to: The Commission

OPPOSITION COMMENTS OF PAPPAS STATIONS PARTNERSHIP

Comes now Pappas Stations Partnership¹ ("Pappas"), by its attorneys, and respectfully submits its comments opposing proposed changes in the network rules contained in Section 73.658 (a), (b), (d), (e) and (g), namely, the right to reject rule, the exclusive affiliation rule, the network territorial rule, the network option rule, and the dual network operation rule. In support, the following is stated:²

¹Pappas Stations Partnership holds licenses and other authorizations from the Commission to operate television broadcast stations KMPH(TV), Visalia, California; KPTM(TV), Omaha, Nebraska; KPWB-TV, Sacramento, California; and KREN-TV, Reno, Nevada.

²Pappas is familiar with the Comments of the Network Affiliate Stations Alliance being filed in this proceeding and generally agrees with the points raised therein.

1. Initially, as a concern that Pappas has previously expressed,³ it is again noted that this docket is one of a series of rule making proceedings looking toward the relaxation of limitations on networks.⁴ The effect of this piecemeal approach to network review is clearly the lessening of the impact that these changes would have on the control of the networks over their affiliates and the public interest. Whether such an approach was by plan or chance, the Commission must, at this time, review these proceedings together and not ignore the totality of their impact.

2. These rules have served the public and the network/affiliate relationship well. To tinker with these protections because of age alone is simply wrong. If anything, the continued movement toward conglomeration by the networks and movie industry requires an even greater vigilance on the part of the Commission to protect affiliate independence and service to the public at the local level.

3. To this end, it is absolutely necessary for affiliates to retain the right to reject network programming. It has been fundamental to the Commission's overview of the public interest service by the broadcasting industry to insist that licensees remain in total control of the programming of their stations. That decision must remain free of second

³See Comments in Opposition of Pappas Stations Partnership filed in MM Docket No. 95-90 dealing with the network rules governing television advertising.

⁴See, e.g., Notice of Proposed Rule Making in MM Docket No. 95-40, FCC 95-145 (released April 5, 1995) (reexamination of rule requiring filing of affiliation contracts) (Filing of Affiliation Contracts NPRM); Report and Order in MM Docket No. 91-221, FCC 95-97 (released March 7, 1995) (repeal of the network station ownership rule and the secondary affiliation rule); Notice of Proposed Rule Making in MM Docket No. 94-123, FCC 94-266 (released October 25, 1994) (reexamination of the prime time access rule); and Notice of Proposed Rule Making in MM Docket No. 95-90 (review of Commission's regulations governing television networks advertising).

guessing and tampering by others, most importantly by the networks. To chip away at this independence by injecting conditions on the right to reject is indeed a first step on a very slippery slope to loss of control.⁵

4. Secondly, the option rule is a further protection to the affiliate from network interference. Without this rule, the affiliates will become totally subject to the scheduling whims of the network and lose control over their ability to plan local programming at times deemed best by the local station. Again, Pappas is puzzled as to why this rule, which has worked well to insulate the affiliates from network intrusion, is being questioned at this time. The best way to protect localism is to prohibit outside interference, not unlock the gates that have barred interference.⁶

5. The territorial affiliation rule has also worked well to provide the opportunity for fringe stations to get a foothold and eventually succeed. The Commission should be very careful in tampering with this rule lest it open these stations to loss of affiliation arrangements and possible economic destruction. It is to these stations -- not the major

⁵To the best of Pappas' knowledge, the great majority of network programming is cleared by affiliates. Thus, why is this a concern and why propose to change something that protects the affiliates and local programming?

⁶Pappas also questions the need to examine the exclusive affiliate rule. It should be the purpose of the Commission's rules to encourage as many sources of programming as possible to the local station, not give to networks the ability to be the doorkeeper of programming in any market.

community stations -- that local audiences look for local news and public affairs programming.⁷

6. Pappas would not oppose a change in the rules that allowed networks to operate a second network in the same marketplace, provided, that the primary affiliate of the network would have the first choice to affiliate with the new network under such terms and conditions as in the primary network affiliation agreement. Pappas recognizes that technical changes may well provide for new opportunities but believes that the networks have an obligation to deal fairly with their existing affiliates. Pappas' proposal allows for both and also protects against the potential conflict that could exist with the network "partnership" with two different competitors in the same market.

Conclusion

For the reasons contained herein, as well as for its concerns raised in its Comments in MM Docket 95-90, Pappas urges the Commission to reject the proposals to change the current rules which set out the guidelines for network/affiliate relations. These rules have permitted a network/affiliate operation that has served both well and protected the public interest in the area of local programming. If anything, the Commission should look more closely at the current agreements that are being entered into between the networks and affiliates to ensure itself that the envelope has not already been pushed open. Perhaps,

⁷A good example is the situation with NBC affiliate WHAG-TV in Hagerstown, MD and NBC-owned station WRC-TV in Washington, D.C. Clearly, the people in Hagerstown and its surrounding environs must look to WHAG-TV for the predominance of their local news and public affairs programming, not WRC-TV. If the territorial rule was changed, it could lead to the loss of WHAG-TV's affiliation and the possible demise of the station, with the loss of that local programming.

after reviewing these agreements, the Commission might find that a strengthening of these rules needs to be adopted as opposed to a proposal for weakening or, worse, deleting them entirely.

It would be foolish for the Commission to believe for a moment that the networks would not take advantage of every opportunity to strip away the remaining independence of their affiliates and take total control of the programming options available under the current rules. The Commission directs licensees to act in the public interest. The Commission should heed this admonition as it reviews these proposed changes -- and should do so as part of one total review.

Respectfully submitted,

PAPPAS STATIONS PARTNERSHIP

By: 

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October 30, 1995